

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THE RECEIVABLES EXCHANGE, LLC,

Plaintiff,

ORDER

11-CV-0292 (JS)(WDW)

-against-

SHERRI HOTTON, MARK C. HOTTON,

Defendants.

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APPEARANCES:

For Plaintiff: Jerome Reisman, Esq.
Reisman, Peirez & Reisman, L.L.P.
1305 Franklin Avenue
P.O. Box 119
Garden City, NY 11530

For Defendants: No appearances.

SEYBERT, District Judge:

On January 20, 2011, Plaintiff commenced this action by filing a Complaint. The Court now sua sponte DISMISSES that Complaint WITHOUT PREJUDICE AND WITH LEAVE TO REPLEAD

Plaintiff's Complaint predicates federal jurisdiction on the basis of diversity of citizenship. (Compl. ¶ 5.) But Plaintiff is a limited liability company. (Id. ¶ 7.). And, although the Complaint identifies Plaintiff's principal place of business, it does not plead the citizenship of each of Plaintiff's constituent members. (Id. ¶ 7.) In so doing, the Complaint ignores that, for diversity purposes, an LLC is a citizen of every state that its members are citizens of. See Handelsman v. Bedford Village Associates Ltd.

Partnership, 213 F.3d 48, 51 (2d Cir. 2000); Castillo Grand LLC v. Sheraton Operating Corp., 09-CV-7197, 2009 WL 4667104, *1 (S.D.N.Y. 2009). Thus, on its face, the Complaint fails to properly plead the existence of diversity jurisdiction. And when a complaint fails to plead subject matter jurisdiction, the Court is obligated to dismiss it sua sponte. See, e.g., Fed. R. Civ. P. 12(h)(3); Book v. Mortgage Electronic Registration Systems, 608 F. Supp. 2d 277, 290 (D. Conn. 2009) (sua sponte dismissing for failure to plead complete diversity); Faraldo v. Kessler, 08-CV-0261, 2008 WL 216608, *6 (E.D.N.Y. 2008) (same); Mackason v. Diamond Financial LLC, 347 F. Supp. 2d 53, 55-56 (S.D.N.Y. 2004) (sua sponte dismissing for failure to allege citizenship of each member of limited liability company).

Consequently, the Court hereby sua sponte DISMISSES Plaintiff's Complaint WITHOUT PREJUDICE AND WITH LEAVE TO REPLEAD. Plaintiff has thirty (30) days to file an Amended Complaint that properly asserts subject matter jurisdiction. If Plaintiff fails to submit an Amended Complaint within that time frame, the Clerk of the Court is directed to mark this matter as closed.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: January 21, 2011
Central Islip, New York